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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,633	06/23/2005	Hajime Fukushima	SAWA0006	9605
22862 7590 06/02/2009 GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025			EXAMINER AFOLAB, MARK O	
			ART UNIT 2454	PAPER NUMBER
			MAIL DATE 06/02/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/540,633

**Applicant(s)**

FUKUSHIMA, HAJIME

**Examiner**

MARK O. AFOLABI

**Art Unit**

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-52 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 06/23/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☒ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-850)  
Paper No(s)/Mail Date 03/03/2006 and 06/23/2005  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to application No. 10/540,633 filed on 06/23/2005, claims 1-52 have been examined.

#### ***Information Disclosure Statement***

2. Applicant is respectfully reminded of the Duty to disclose 37 C.F.R. 1.56 all pertinent information and material pertaining to the patentability of applicant's claimed invention, by continuing to submitting in a timely manner PT0-1449, Information Disclosure Statement (IDS) with the filing of applicant's of application or thereafter.

#### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Appropriate correction is required.

#### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology

often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because the **length falls below the stipulated minimum of 50 words** Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-7, 25-27, 36-41, 42-43 and 51-52 are rejected under 35 U.S.C. 101 as being is directed to non-statutory subject matter.

Claims 1-5 are claiming software per se, these claims recited "a communication model characterized..." this would reasonably be interpreted by one of ordinary skill in the art as software, per se.

Also, claims 6-7 are claiming software per se, these claims recite "carrier signals..." in light of the specification [0631] cited below:

"by proposing a new carrier signal called countersign, it is possible to obtain an element among the said four elements that has not been obtainable conventionally (B in the real image)".

Furthermore, claims 25-27, 36-41, 42-43 and 51-52 are all claiming software per se, these claims recite, program product characterized..., program product executed... and program product implemented... respectively. These claims would reasonably be interpreted by one of ordinary skill in the art as software, per se.

In addition, claims 36-41 recited a "communication node (mapping announcement system) characterized...." however, it appears that the node would reasonably be interpreted by one of ordinary skill in the art as software, per se, since the mapping announcement system is reconfigured, which is a functional descriptive material per se. and also failing to be tangibly embodied or include any recited hardware as part of the node.

It is pertinent to note that, all these program, module, model, software code and data signals transmitted on one or more carrier waves are all software per se. Therefore, these claims are not limited to statutory subject matter. See, *Gottschalk v. Benson*, 409 U. S. 63, 175 USPQ 673 (1972).

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 1-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms in the claim lack antecedent basis:

Regarding claim 1,

The destination....

The mapped image...

The pair consisting...

The store-and forward...

Regarding claim 6,

The originator....

The destination....

The response request....

Regarding claim 8,

The originator....

The destination....

The reply that the destination...

The said stored arbitrary information.

Regarding claim 28,

Set the reply that ought....

The result of the comparison....

Regarding claim 36,

The destination....

The mapping announcement system....

The mapped image...

Regarding claim 44

The originator....

The mapping announcement system....etc.

Claims 2-5, 7, 9-27, 29-35, and 43-52 fail to resolve the deficiencies of claims 1, 6, 8, 28, 36 and 44. All these claims do not invalidate the rejected claims above, hence all are rejected too.

Again, claims 1, 6, 8, 28, 36 and 44 are rejected under 35 U.S.C. Because the claims are written in a narrative format, it is unclear where the preamble ends and the claim begins.

### ***Claim Rejections***

10. Claims 1 to 52 are presented for examination and are presently pending.

1. The examiner tried his best to understand the claims. However, the claimed language is unclear to understand. The examiner cannot conduct a search to find art/reference to apply against these claims in its present form. The examiner will not speculate as to the intended meaning.

2. Applicant is **advised to rewrite the claims** in such a way to be understandable.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK O. AFOLABI whose telephone number is (571) 270-5627. The examiner can normally be reached on Monday-Friday between (8:30 am to 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NATHAN FLYNN can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/M.O.A/

/MARK O. AFOLABI/

Examiner AU 2454

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2454